



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill #	HB0615	Title:	Revise laws related to the fundamental rights under the MT constitution
Primary Sponsor:	Glimm, Carl	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
Expenditures:				
General Fund	\$0	\$230,791	\$464,299	\$484,971
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>(\$230,791)</u>	<u>(\$464,299)</u>	<u>(\$484,971)</u>

Description of fiscal impact: This bill proposes a November 2016 referendum to the Montana electorate to establish the Montana Religious Freedom Act. Counties will incur costs to place the referendum on the ballot. If the referendum were to be passed, the Department of Corrections would require additional resources to comply with the changes this bill would bring to prison programs.

FISCAL ANALYSIS

Assumptions:

- HB 615 is a voter referendum and this fiscal note is contingent on the bill being voted into law. If the referendum does not pass, there would be no fiscal impact to the state. If the referendum is passed, the bill would be effective January 1, 2017, and would have a measureable fiscal impact to the Department of Corrections.

Department of Corrections (DOC)

- This bill is an expanded version of the 2001 Religious Freedom Restoration Act (RFRA) as amended by Religious Exercise in Land Use and Institutionalized Persons (RLUIPA).

3. This bill creates a new state law claim in addition to the claims under federal law and defines “governmental interest” as “of the highest order that cannot otherwise be achieved without burdening the exercise of religion.”
4. The bill defines “exercise of religion” as “the ability to act or refuse to act in manner substantially motivated by one’s sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.”
5. “Sincerely held religious belief” is subjective, and will be difficult to prove in court and verify within a facility. For security reasons, staff at DOC’s secure facilities performs research and conducts interviews to ascertain inmate consistency, sincerity, and practice. The secure custody facilities would need to hire additional religious coordinators at the Montana State Prison and the Montana Women’s Prison to complete the research and interviews. The cost of the 2.00 FTE would be \$135,103 per year.
6. Following the implementation of the RLUIPA in 2001, data collected from the United States Commission on Civil Rights, RLUIPA cases have increased by 109 cases from calendar year 2004 to 2006, which equates to an average increase of 135% per year.
7. Expanding religious freedoms to inmates at the state level can be expected to have a similar impact.
 - a. In CY 2014, the Department of Corrections had 12 RLUIPA cases. Three of those cases were settled for an average cost of \$1,050 per case. The remaining nine cases are not yet finalized.
 - b. Based on national statistics from the US Department of Justice, the estimated lawsuits will increase 135% each year creating a workload of 15 in FY 2017; 39 in FY 2018; and 53 in FY 2019.
 - c. At an average cost of \$1,050 per case, the anticipated cost for the Department of Corrections will be \$15,352 in FY 2017; \$41,318 in FY 2018; and \$55,600 in FY 2019.
 - d. The Department of Corrections will also need to hire an additional attorney FTE to assist with the additional workload. The cost of 1.00 FTE for an attorney is \$129,885 per year with an inflationary increase of 1.5% each year.
8. In addition, according to the US Department of Justice, religious complaints or grievances have increased on average 123% over the past 8 years. The Department of Corrections will see an increased number of inmate grievances which will require 2.00 additional grievance coordinators; one at Montana State Prison and one at Montana Women’s Prison. The cost for the 2.00 FTE is \$134,638 each year with an inflationary increase of 1.5% each year.
9. The FTE listed above will have a one-time-only cost of \$14,500 in FY 2017 and on-going costs of \$10,500 for phones, supplies, travel, and training.
10. The total cost to the Department of Corrections will be \$230,971 in FY 2017, \$464,299 in FY 2018; and \$484,971 in FY 2019. Beginning in FY 2018, all costs include an inflationary increase of 1.5%.

Other State Agencies

11. Agencies including the Montana Arts Council, Department of Military Affairs, State Auditor’s Office, Department of Natural Resources and Conservation, Department of Commerce, and Department of Labor and Industry estimate that there could be a fiscal impact to their agency however they are unable to quantify the fiscal impact.
12. All other state agencies anticipate no fiscal impact if HB 615 were passed by the voters.

Department of Corrections

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.00	2.50	5.00	5.00
<u>Expenditures:</u>				
Personal Services	\$0	\$202,810	\$411,704	\$417,879
Operating Expenses	\$0	\$28,161	\$52,595	\$67,092
TOTAL Expenditures	\$0	\$230,971	\$464,299	\$484,971
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$230,971	\$464,299	\$484,971
State Special Revenue (02)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	\$0	\$230,971	\$464,299	\$484,971
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	(\$230,971)	(\$464,299)	(\$484,971)
State Special Revenue (02)	\$0	\$0	\$0	\$0

Effect on County or Other Local Revenues or Expenditures:

1. The total costs for ballots, printing, programming and other associated costs are estimated to be \$505,254. The total costs of \$505,254 divided by the average number of contests per ballots (18 contest) = \$28,069.
2. In 2014, the cost to counties for programming and printing legislative referenda was approximately \$56,139 (2 times \$28,069)

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date